

## CONTENTS OF REPORT

Itemized reports on independent expenditures requires the following information: {32 KAR 1:080}

### • **Certification**

The report must include a certification, under penalty of perjury, that the expenditure meets the standard of independence.

### • **Information About Expenditure**

The report must include the date, amount and purpose of the expenditure and must indicate whether the expenditure is in support of or in opposition to the candidate, slate of candidates, or issue. Note that when an independent expenditure is made on behalf of more than one clearly identified candidate, the expenditure must be allocated among the candidates in proportion to the benefit they are expected to receive.

### • **Information About Candidate**

The report must include the name of the candidate, slate of candidates, and the office sought or the name of the issue.

### • **Information About Person Making Expenditure**

The report must include the person's name, address, occupation, and employer. If the independent expenditure is made by a committee, the committee must provide its name, address and a description of the major business, social, or political interest represented.

### • **Information About Payee**

The report must include the name and address of the person to whom the expenditure was made.

## DISCLAIMERS

KRS121.190(1) All newspaper or magazine advertising, posters, circulars, billboards, handbills, sample ballots and paid-for television or radio announcements which expressly advocate the election or defeat of a clearly identified candidate, slate of candidates, or group of candidates for nomination or election to any public office must be identified by the words "Paid for by" followed by the name and address of the payer.

## PENALTIES

KRS 121.990 provides that "any person who knowingly violates any of the provision of ...KRS 121.150 to 121.230...shall, for each offense, be guilty of a Class D felony." KRS 121.990(4) also provides that an election may be voided if a candidate, slate of candidates or campaign treasurer knowingly violates KRS 121.150 to 121.220.



Kentucky Registry of Election Finance  
140 Walnut Street / Frankfort, KY 40601-3240  
502-573-2226 Fax: 502-573-5622  
[www.kref.ky.gov](http://www.kref.ky.gov)

## INDEPENDENT EXPENDITURES



## WHAT IS AN INDEPENDENT EXPENDITURE?



# INDEPENDENT EXPENDITURES

Individuals, groups of individuals and political committees may support or oppose candidates by making independent expenditures in unlimited amounts. {Buckley v. Valeo, 424 U.S. 1, 96 S.Ct. 612, 46 L.Ed.2d 659 (1976)}. These expenditures do not count against the contribution limits established by the statutes. {KRS121.150(1); KRS121.150(6)}. This brochure defines the term “independent expenditure” and explains reporting and other requirements involved in making independent expenditures. If you have any questions after reading this brochure, please call the Registry at (502)573-2226.

\* Candidates and their committee staff may distribute this brochure to anyone who requests Registry guidelines on independent expenditures.

## WHAT IS AN INDEPENDENT EXPENDITURE

An independent expenditure is an expenditure for communications expressly advocating the election or defeat of a clearly identified candidate or slate of candidates, or the passage or defeat of a constitutional amendment or public question which will appear on the ballot and which is made **without** any coordination, consultation, or cooperation with any candidate or slate of candidates, campaign committee, or any authorized person acting on behalf of them, and which is not made in concert with or at the request or suggestion of any candidate or slate of candidates, campaign committee or any authorized person acting on behalf of any of them. {KRS 121.015(12); KRS 121.150(1)}

A “clearly identified candidate” is one whose name, photograph or drawing appears or whose identity is apparent by unambiguous reference. “Authorized person” means any person who has actual oral or written authority, either express or implied, to make or to authorize the making of expenditures on behalf

of a candidate, or means any person who has been placed in a position within the campaign organization where it would reasonably appear that in the ordinary course of campaign-related activities, he or she may authorize expenditures.

## WHAT IS NOT AN INDEPENDENT EXPENDITURE

When an expenditure is made under the following circumstances, it results in an in-kind contribution rather than an independent expenditure and, therefore, counts against the per-election contribution limit for a candidate, slate of candidates or political issues committee:

### • *Contact With Candidate's Campaign*

An individual may not communicate with a campaign regarding an independent expenditure prior to the time that the expenditure is made. Any expenditure made in cooperation or consultation with the candidate (or agent), or as a result of his/her request or suggestion, is considered an in-kind contribution; not an independent expenditure. {KRS 121.015(6)(b)(c)(d)}. However, when an individual merely requests and receives from a candidate Registry guidelines on independent expenditures (such as this brochure), he/she is not considered to have coordinated, cooperated or consulted with the candidate. {KRS 121.150(1)}

### • *Candidate-Prepared Material*

The distribution or republication of campaign material produced or prepared by a candidate's campaign does not qualify as an independent expenditure. Distribution or republication of such material would be considered an in-kind contribution; not an independent expenditure. {KRS 121.015(6); KRS 121.150(1) and AO 95-012}

### • *Expenditure By Committee Employee*

An expenditure made on behalf of a candidate, but directed by a current or former officer or employee of that candidate's committee, or by a person who has received compensation or reimbursement from the campaign, is presumed not to be independent. {KRS 121.150(1) and AO-95-012}

### *Example:*

An individual who has not previously been involved in the campaign of candidate Jones purchases tee shirts advertising support for Jones and absolutely no contact, or consultation has been made with the candidate or any of his/her campaign staff. The purchase is considered an independent expenditure. However, if before purchasing the tee shirts the individual asks candidate Jones or his/her campaign staff how he/she may help the campaign, the individual has then made an in-kind contribution. Further, if the individual buys tee shirts and uses a logo actually prepared by Jones's campaign staff, the individual makes an in-kind contribution to the candidate. (An in-kind contribution, when combined with all other contributions from the same individual, is limited to \$1,000 per candidate, per election.) {KRS 121.150(6); and AO 95-012}

## REPORTING REQUIREMENTS

### • *Political Committee*

A reporting political committee must file an independent expenditure report with the Registry when the independent expenditure exceeds five hundred dollars (\$500) in the aggregate in any one (1) election. {KRS 121.150(1)}

### • *Any Other Person*

Any other person must file a report with the Registry when the independent expenditure exceeds five hundred dollars (\$500) in the aggregate in any one (1) election. {KRS 121.150(1)}